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28 April 1954

MEMORANDUM FOR: Office of General Counsel

SUBJECT: Request for Study of Diplomatic Immunity

1. In recent months a number of Soviet and Satellite diplomatic and consular personnel have returned to their home countries under conditions which appeared to constitute duress. In most instances, the returnee is closely escorted by several persons having diplomatic passports and posing as couriers. Observers have alleged that physical force has been used to get the returnee to board an aircraft, boat or train, and outsiders have been kept away from the returnee. In some instances, private railroad cars attached to through trains have been used to move Soviet and satellite diplomats through Western countries like France and Germany. These cars are guarded by civilian diplomatic personnel who exclude all unwanted persons.

2. The close guarding of Iron Curtain diplomatic personnel on these return trips makes it very difficult for them to be approached for defection arguments and also obviously makes it impossible to prevent kidnappings. Therefore the rights and privileges of the Iron Curtain guards and of their charges are a matter of moment to CIA and to the local security services of most Western countries. Occasions have arisen where personnel in which CIA and friendly services are operationally interested have been moved out of Western countries under this type of close guard. The recent case of [REDACTED] wife of an MVD defector, has aroused new interest in this legal problem. There will be other future instances where CIA, alone or in conjunction with local services, will want to interfere with and obstruct the "legal kidnapping" of Iron Curtain officials who are being herded back to their home country.

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3. The FI Staff would like a legal opinion on this situation. Specifically we would like light thrown on the following questions:

a. The right of local police forces to detain diplomatic personnel to establish their identities, accreditation, and their personal wishes about travel. (It seems to us that a local service can require any diplomat to produce his passport and answer a few questions to prove that he is the legal bearer of the passport, and that he does or does not want police protection.)

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b. The right of diplomatic personnel to isolate and guard other personnel under escort against their will, including keeping away the local security service.

c. The right of local police to intervene with the use of reasonably necessary force to question "captive" personnel and to prevent the commission of a crime of violence or of kidnapping by diplomatic personnel.

d. The right of foreign governments to move closed vehicles through the territory of a sovereign state and refuse to allow the local police to have access to the occupants of the vehicle to identify and question them.

4. Custom and usage on this matter have varied from the refusal of Swiss police to intervene when a satellite diplomat was dragged bodily into an aircraft for a trip home, to the effective action of [REDACTED] authorities to prevent the kidnapping of [REDACTED]. A survey of existing international law, custom, and usage on the questions listed above, would be very helpful in connection with situations which are likely to arise in various parts of the world at any time.

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Deputy Chief
Foreign Intelligence

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